

State of California
BOARD OF EQUALIZATION
MOTOR VEHICLE FUEL TAX REGULATIONS

Regulation 1134. SALES TO THE UNITED STATES.

Reference: Sections 7401, 8101, Revenue and Taxation Code.

(a) IN GENERAL.

Sales of motor vehicle fuel to the United States, its agencies and instrumentalities are taxable, except when the motor vehicle fuel is sold to the United States armed forces for use in ships or aircraft, or for use outside this State. "Armed forces" include the Army, Navy, Air Force, Marines, and Coast Guard.

To establish that a sale to the armed forces is exempt the seller must obtain a certificate from the agency of the armed forces purchasing the fuel that it is acquired for use (a) in ships, (b) in aircraft or (c) outside the State. This certificate may be incorporated in the purchase order or contract relating to the acquisition of the fuel by the governmental agency. All such certificates should be retained by the seller for audit purposes.

(b) SALES OF EX-TAX MOTOR VEHICLE FUEL.

A supplier licensed under the Motor Vehicle Fuel Tax Law that makes sales of ex-tax motor vehicle fuel to the United States armed forces for use in ships or aircraft, or for use outside this State, may claim an exemption on its motor vehicle fuel tax return.

(c) SALES OF TAX-PAID MOTOR VEHICLE FUEL.

Any person who makes sales of tax-paid motor vehicle fuel to the United States armed forces for use in ships or aircraft, or for use outside this State, may file a claim for refund of the tax with the State Controller.

History Effective September 15, 1961.

Amended November 7, 1963, effective December 12, 1963.

Amended July 8, 1971, effective July 20, 1971.

Amended April 1, 1983, effective May 2, 1983. In third paragraph added "or brokers" and changed "Section 7451 et seq." to "Sections 7486 and 7487;" changed all references to "Section 7401(e)" to "subdivision (a)(5) of Section 7401;" changed all references to "Sections 7401(c)" to "subdivision (a)(3) of Section 7401;" in last paragraph deleted "but . . . than \$500,000" and inserted "Sections 7486 and 7487."

Amended March 27, 2002, effective July 11, 2002. First two paragraphs of former regulation designated as subdivision (a) and within (a) former references to "distribution" and "distributor" were replaced with "sales" and "seller" to conform with new Motor Vehicle Fuel Tax Law effective January 1, 2002. Subdivision (b) added to clarify that a supplier making a sale of ex-tax fuel to the United States armed forces may claim an exemption on the supplier's tax return. Subdivision (c) added to clarify that any person making a sale of tax-paid fuel to the United States armed forces shall file a claim for refund of the tax with the State Controller. Remainder of former regulation repealed since Revenue and Taxation Code Sections 7401, 7486, and 7487 (relating to exemptions for distributors and brokers and to bond requirements of distributors and brokers) were repealed pursuant to statutory changes to the Motor Vehicle Fuel Tax Law that became effective on January 1, 2002.